IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2631 OF 2006.

Raju Tarachand Mali .. Applicant
V/s
State of Maharashtra .. Respondent.

Mr. S.V. Marwadi i/b Mr. M.D. Mali and P.D. Mali for the applicant.

Mr. P.A. Pol, A.P.P. for the respondent.

CORAM : S.C. DHARMADHIKARI, J.

DATE : 28TH AUGUST, 2006.

P.C.

. The applicant has been arrested by Rajaram Puri Police Station, Kolhapur in CR. No. 2 of 2006. He has been arrested on 8th January, 2006. The offences alleged are under Sections 395, 397 r/w section 34 of Indian Penal Code.

2. It appears that the investigations have been completed and charge-sheet has also been filed. The case has been committed to the Sessions Court and numbered as Sessions Case No.65/2006. Mr Marwadi submits that the accused Nos. 4 and 5 have been released on bail by this Court on 3rd May, 2006 in

Criminal Application No. 1732 of 2006. Accused No.2 has been enlarged on bail by the trial Court. In his submission, the applicant who has been arrested on 8th January, 2006 was remanded to police custody for 15 days and there have been no further recoveries at the instance of the accused in this case.

3. Mr. Marwadi's complaint is that the application for bail preferred before the trial Court was rejected only on the ground that the applicant is not a person residing in the State of Maharashtra but hails from Rajasthan. This matter was adjourned time and again to enable the applicant to point out that he has been residing in the State of Maharashtra, as averred in the present application, for last 10 years.

4. Initially, the affidavit was filed by the Cousin of the applicant who is residing in Kolhapur, that the applicant is residing with him and works with him. I had directed the applicant to file an affidavit and now the affidavit has been filed by the applicant. He has clearly stated in the affidavit that he resides with his Cousin brother on at address mentioned in the application. He has also been insured with the Life

Insurance Corporation of India, Belgaum Division, where a policy has been issued to him at the address mentioned by him in the affidavit.

5. However, Mr. Marwadi on taking instructions states that the applicant is residing at the addresses mentioned in the affidavit filed in this Court on 23rd August, 2006.

6. Mr. Pol, the learned A.P.P. complains that the applicant is in the habit of changing his residential address. The applicant should not be enlarged on bail, unless he furnishes proof of his residence in Kolhapur and more particularly at the address mentioned in the affidavit dated 23rd August, 2006 and copies of relevant documents in that behalf.

7. On grounds of parity and considering that the investigations are complete and chargesheet is filed, the applicant deserves to be enlarged on bail. Hence, following order.

i) The applicant arrested in connection with CR.No. 2 of 2006, registered with Rajaram Puri, Police Station,

Kolhapur, shall be enlarged on bail subject to furnishing a personal bond of Rs.5000/- with one or two local sureties in the like amount.

ii) The applicant shall not leave the limits of Kolhapur city without prior permission from the trial Court.

iii) The applicant shall report to Rajaram Puri Police Station, Kolhapur twice a week between 10 a.m. to 1 p.m. till the trial is concluded.

iv) The applicant shall not be released on bail unless he furnishes proof of his residence at the address mentioned in the affidavit filed by him in this Court on 23rd August, 2006 and hands over copy of relevant documents in that behalf. Needless to state that if the applicant is residing with his cousin brother in Kolhapur and does not have residential premises belonging to himself it would be adequate if he furnishes the proof of residence of the cousin brother so also that he is residing along with him.

v) The order of bail will be given effect only

after the applicant furnishes to the investigating officer the the proof of his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

vi) The bail is granted subject to condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

vii) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

viii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

ix) Application is disposed of in above terms.

x) Parties to act on an authenticated copy of this order.

(S.C. DHARMADHIKARI, J.)